

revenue. To help prevent this, DOC should develop a proposal for using the inmate telephone revenue to fund specific programs that includes goals and objectives for programs that are requested to receive the funding.

Potential Uses of Inmate Phone Revenue. A number of different uses for the revenue from the inmate telephone system have been suggested by DOC and Department of Planning and Budget staff during this study. For example, both proposed using the funding to expand inmate treatment programs or to upgrade the quality of academic and vocational training programs offered to inmates. Reportedly the current funding for these programs has not been sufficient to meet demand.

DOC staff also suggested that the revenue could be used to expand the telemedicine videoconferencing program that is used to provide specialty care for inmates. At the present time, there is a videoconferencing link between the Powhatan correctional center and medical specialists at the Medical College of Virginia (MCV). DOC staff believe that this has been an extremely beneficial arrangement for both inmates and DOC. Inmates are able to secure the services of a specialist more consistently and DOC is able to avoid transporting inmates from the Powhatan correctional center to MCV. DOC staff noted that this technology could be applied to other facilities as well.

Another potential application of revenue from the inmate phone system are programs, services, or facilities designed to facilitate visitation of inmates in DOC institutions. For example, the 1993 State Crime Commission report recommended that matching grant funds be provided to not-for-profit organizations providing transportation for prison visitation. The report also noted that there were few accommodations that facilitated children visitors. Revenue from the inmate phone system could potentially be used for these or other services designed to facilitate visitation of DOC inmates.

Application of Funds Should Be Clearly Established. If commission revenue is specified for direct use for inmate programs or services, the intended purpose of the funding should be clearly specified. Corrections officials in other states noted that this is important to ensure that commission revenues are expended in a manner which is consistent with the intended purposes. If clear guidance is not provided regarding how the funding is to be utilized, the intended benefits of the commission revenue may not be realized.

For example, in 1995, the Georgia Department of Audits recommended that the state's corrections department discontinue using a special fund created to hold telephone commission revenues in trust for inmates. The report found that:

Department personnel ... felt "ethically obligated" to ensure that these funds were only used to benefit inmates since the source of funds was primarily from the inmates family and friends. [However,] the Department's definition of items 'benefiting' inmates is so broad that there is little reason to utilize a trust fund to differentiate these

expenditures from normal expenditures made with appropriated funds. Practically any purchase made for a correctional facility can ultimately be rationalized to benefit inmates in some manner. For example, items such as razor wire, fencing, buildings, furniture, televisions, and recreation equipment are purchased with commission funds.

The report added that many of these items were also being purchased with general fund appropriations. In another state that reportedly used funding from the inmate phone system to benefit inmates, security cameras have been purchased with the telephone system commission revenue.

Proposal for Utilizing this Funding Should be Developed. As discussed earlier, there are some DOC programs and services utilized by inmates that could potentially benefit from additional funding. However, there is no clear plan available to prioritize or determine the programs' funding needs. If all or a portion of telephone commission revenue is to be returned to DOC in an effort to enhance inmate programs, DOC should identify potential funding needs of programs or services that benefit inmates, and develop clear and measurable goals and objectives for expenditures of these funds.

At a minimum, DOC should identify the inmate programs or services which are in need of additional funding to maximize their effectiveness and offer strategies to enhance these programs through inmate telephone commission revenue. Moreover, any telephone commission revenue requested should not be used to replace appropriated State funding.

DOC should also consult with other State agencies that provide services to inmates to assess potential needs among those agencies. For example, the Department of Correctional Education (DCE) provides educational services and programs for inmates in DOC facilities. DCE should be requested to identify inmate educational services or programs that could benefit from additional funding. Finally, DOC could consult with inmate advocacy groups for additional suggestions on the potential uses of commission revenues.

Recommendation (4). The General Assembly may wish to require that revenue from the inmate phone system be used for programs or services that directly benefit inmates.

Recommendation (5). The Department of Corrections should develop a proposal for using the inmate phone system revenue for specific prison programs designed to benefit inmates. The proposal should include measurable goals and objectives for each program under consideration and be presented to the House Appropriations and Senate Finance Committees by February 1, 1997.

ADMINISTRATION OF INMATE PHONE SYSTEM CONTRACT SHOULD BE TRANSFERRED TO DIT

Item 14I of the 1996 Appropriations Act requires that JLARC address the need for oversight by an entity independent of DOC. This review indicates that more proactive and consistent administration of the contract governing the inmate phone system is needed. The principal framework in which the inmate phone system operates is the contract. Therefore, a properly written and monitored contract is necessary to ensure that the needs and expectations of DOC, inmates, and call recipients are met.

Nonetheless, concerns with the adequacy of DOC's oversight and monitoring provided the inmate phone system have been identified in this study. A 1993 study by the State Crime Commission also cited concerns with DOC's oversight and monitoring of the system. The area of telecommunications is a rapidly evolving and technology driven industry. Thus, DIT appears to be the agency with the proper focus and infrastructure to best support more proactive and consistent administration of the inmate phone system contract.

Telecommunications Industry Is Rapidly Evolving and Technology-Driven

Since 1988, a number of significant changes have occurred in the telecommunications industry. These changes began with the 1983 federal court ordered AT&T divestiture of the regional Bell telephone operating companies. This divestiture was extended in 1988 to the public payphone industry. The Telecommunications Act of 1996 will likely continue to provide the impetus for rapid and potentially confusing changes in the telecommunications industry.

The 1996 Telecommunications Act requires that many of its provisions be implemented quickly. In addition, the regulatory approach and technology advances in the industry have affected service offerings and rates. These changes will continue to affect both the purchasers and users of telecommunication services. As one telecommunications official recently noted:

The combined impact of these developments is that every rule, assumption, and tradition in our industry is being shoved aside. And the net result is change.

Even though the service provided to DOC inmates through the phone system is a contracted service, the changes in the industry could even impact how telecommunications contracted services are provided and administered.

Concerns with Administration of the Inmate Phone System Have Been Cited in Other Studies

Concerns with various aspects of the administration of the inmate phone system have apparently been raised since shortly after the establishment of the current system. A 1993 study by the State Crime Commission regarding family and community ties of incarcerated individuals also addressed the issue of the DOC inmate phone system and identified a number of problems. The report stated that:

The system has also suffered defects well recognized by the phone carrier who asserts that efforts are being made to resolve such defects. Early termination of calls ... improper billing for calls, and inadequate noise barriers in certain phone locations are examples of defects that should not be tolerated. In reviewing these concerns, we found that problems have not always been addressed in prompt fashion.

Concerns with background noise are still reported by some inmate call recipients. MCI staff noted that noise problems often were related to the design of the facility, which enabled background noise to "echo" in the rooms where phones were located. Apparently, the phone companies providing service prior to the current system had good sound barriers, but they were removed when the current contract was established.

At the present time, DOC's security concerns apparently limit what types of barriers can be installed. However, the contract clearly requires that noise reduction equipment be installed and that DOC "reserves the right to decide, on a case-by-case basis, whether the selected equipment accomplishes the noise reduction objective."

Regarding administration of a contract such as the one for the DOC inmate phone system, the State Crime Commission's report concluded that:

In circumstances such as this, however, where the Commonwealth grants a monopoly to a commercial enterprise to provide service ... responsiveness to legitimate complaints should be made a top priority. Contractual obligations should be met without undue delay and, indeed, greater scrutiny to alleged shortcomings should be applied than might otherwise be the case.

Given the rates that call recipients are currently required to pay, concerns regarding these issues should be properly and promptly addressed.

Department of Information Technology's Focus Facilitates Administration of Telephone Services

The primary purpose of the DOC telephone contract appears to be to provide secure inmate telephone services while minimizing the involvement of DOC staff in the

day-to-day operation of the system. It therefore seems appropriate that the agency or organization primarily responsible for administering and implementing the inmate telephone system also have a focus or background consistent with the service to be provided and the contract to be administered. DOC does not appear to have the necessary focus or mission for providing day-to-day administration of the inmate telephone system or contract.

A review of the missions of potential agencies considered for the administration of the DOC inmate phone system indicates that the agency with the clearest mission related to the procurement, operation and administration of telecommunication services is DIT (Table 7). Moreover, the *Code of Virginia* prescribes a number of "powers and duties concerning the development, operation and management of communications services." As a result, DIT has significant experience providing, procuring, and administering telecommunication services to the State and some local governments.

In contrast, the focus of DOC is primarily constructing and operating various classifications of secure confinement facilities ranging from maximum security institu-

Table 7

Selected Agencies' Missions and Roles Regarding Telecommunications

Agency	Focus of Agency's Mission
Department of Corrections	"The Department of Corrections provides secure confinement and a variety of community-based placements and services.... The principal activity of the Department is to ensure that adult criminal offenders are removed from society and housed in a secure environment."
Department of Information Technology	"The Department is responsible for managing and coordinating the use of various telecommunications services, teleconferencing, and computer processing centers in the Commonwealth.... formulating policies, standards, and specifications for telecommunications, automated data processing, and management information systems; procuring ADP and telecommunications equipment and services on a statewide basis; reviewing and approving agreements and contracts for ADP and communication equipment and services...."
State Corporation Commission	"The <i>Constitution</i> vests in the Commission the duty of regulating the rates, charges, and services of facility-based telephone companies and interexchange carriers and, except as otherwise authorized, their facilities."

Sources: JLARC staff analysis of the 1990 - 1992 *Executive Budget of the Commonwealth* and the *Virginia Administrative Law Appendix*, 1995.

tions to detention centers and work camps. DOC is also responsible for the oversight of local and regional jails which also share many of the features of the facilities operated by DOC.

Finally, another agency evaluated for the placement of the inmate phone oversight function was the SCC. The SCC is very active in the regulation of public utilities, which includes telecommunications services. However, the SCC is prohibited by the *Code* from regulating telecommunications services provided under contract with a State agency.

Moreover, many of the broad goals of the SCC are simply objectives that the DOC inmate phone system should address through the contract development, implementation, and administration process. For example, two of the SCC's goals are to:

- ensure that public service corporations provide quality service, and
- provide assistance to individuals who have disputes with regulated companies.

These should also be goals or requirements that a State agency contracting for telecommunications services should address through the contract development and contract administration process. A properly developed contract and proactive and consistent administration should ensure that these goals are met.

However, procuring telecommunication services and day-to-day administration of contracts are not a primary focus of either the SCC or DOC. Those activities are a major responsibility of DIT. DIT developed and currently administers the State's contract for statewide telephone service. This expertise is important in a rapidly evolving, technology-driven industry such as telecommunications.

One State telecommunication director reported that individuals involved in negotiating telecommunications contracts should be specialists in that area. Otherwise, non-specialists trying to deal with telecommunications contracts will not have the expertise to deal with the issues related to the systems. In fact, SCC staff noted that DIT has significant telecommunications expertise available for developing and administering the type of contract needed to provide inmate telephone service.

DIT's Infrastructure Supports Proactive Administration of the Inmate Phone Service Contract

One benefit of assigning responsibility for developing and administering the contract for the DOC phone system with DIT is the administrative and technical support structure that would be available. These resources could be used to monitor the contract, interact with the contractor, and respond to call recipients concerns. These resources that are available within DIT are not readily available in other agencies.

DOC currently lacks many of these resources, which is reflected in the concerns expressed regarding DOC's current approach to administration of the inmate phone system contract. DOC staff involved in administering the inmate phone system reported that they do not have a technical background or telecommunications experience. This could limit proactive oversight of calling activity or service related problems. Finally, requiring DIT to administer the inmate phone contract as part of the entire statewide telecommunications service contract could benefit the State, inmates, call recipients, and possibly local jails.

More Proactive and Consistent Oversight of Contract and Services Is Needed. One positive factor that should occur with a reassignment of contract responsibilities for the inmate phone system from DOC to DIT would be more proactive and routine oversight. At this time, DOC staff responsible for the current inmate phone system contract do not provide consistent oversight of the contract or telephone services. For example:

At one time during the current phone system contract, calls were automatically terminating after 15 minutes and 10 seconds instead of terminating at exactly 15 minutes. This problem was linked to the phone system's software. Despite being automatically terminated by the system after 15 minutes and 10 seconds, call recipients were billed for 16 minutes because the system billed in one minute increments. Until the software issue could be resolved, the calls were instead terminated at 14 minutes and 10 seconds and call recipients were billed for 15 minutes. Despite this earlier problem, DOC staff noted that they do not go out to facilities to check whether the call duration cutoff was functioning properly.

Moreover, since the issue of call duration is a DOC policy, DOC should actively monitor this requirement, especially since the charges are rounded up to the next minute and problems have existed in the past. To resolve this particular issue, the SCC worked with MCI despite the fact that the SCC was not responsible for administering the contract.

DOC staff noted that they do not have the technology or the time to check on everything related to the inmate phone system. When discussing rates charged and whether the rate benchmark requirements in the contract were being complied with, DOC staff reported that:

MCI and AT&T rates are tarified by the SCC and the FCC. As a result, the SCC and FCC indirectly oversee that portion of the contract addressing rates. Because rates are tarified, the telephone company knows that these agencies are watching them, which will ensure rates are properly charged.

This assumption by DOC staff is incorrect, however. The SCC is prohibited by the *Code of Virginia* from involvement in issues related to telephone services provided under contract with State agencies. Moreover, the FCC does not currently require providers of interstate telephone services to correctional institutions to even file informational tariffs. Clearly, the SCC and FCC do not indirectly monitor that portion of the contract.

DOC staff noted that the primary oversight of calling and commission activity is to compare and check the totals of the commission revenue data provided by the contractor. Although DOC had discussed development of a system to randomly audit the data, nothing has yet been finalized. Moreover, staff noted that the contractor was a large reputable company and would not risk its reputation by not meeting the requirements in the contract. Finally, DOC staff noted that they lack the technology that would likely be necessary to routinely provide this type of oversight.

Conversely, DIT staff noted that technical issues could cause some unanticipated problems with the commission payments or charges. For those reasons, DIT provides routine oversight of the commission payments and calling charges for the telephone contract it administers.

For example, DIT reported that it has established expected benchmarks for commission revenue and calling patterns for the phone systems it administers. DIT receives magnetic tapes for all calling activity and checks the data on the tapes against established benchmarks. DIT staff also reported that they routinely check the calling data on tapes from local exchange carriers against the data on the contractor's long distance tapes to ensure the same calls appear on each data source. Staff in North Carolina's department of corrections reported that cross-checking calling data from two independent sources has enabled them to recover about \$500,000 in improper charges over a two-year period.

Other Indirect Benefits from Assigning Responsibility for Inmate Phone System to DIT Could Also Accrue. In addition to the more proactive and routine oversight of the inmate phone system that would likely be provided by DIT, other indirect benefits of assigning responsibility for the inmate phone system to DIT could also accrue. First, the *Code of Virginia* requires that counties, cities, and towns be included, if they choose, in the State's telecommunications contract administered by DIT. As a result, DIT staff noted that if the inmate phone system contract were included in the State contract, local jails would also have the ability to utilize the inmate phone service if they desired.

Second, if the inmate phone system were included as a section of the State's telecommunication contract, the ability of DIT to negotiate more favorable rates for both the State's telecommunication services and the inmate phone system might be enhanced. DIT noted that the inmate phone system has a significant volume of long distance traffic which would be attractive for a telecommunications company interested in providing telephone service to the State. As a result of this volume, DIT might be in a better position to obtain favorable rates for both the State's phone service and inmate call recipients.

DOC's Security Requirements for Inmate Phone System Must Also Be Addressed

Finally, as discussed in Chapter I, the DOC inmate telephone system has a number of specialized operational and security features that are not part of a traditional phone system. Despite these features, it will likely be necessary for DOC to require additional security features in the next phone system. If DIT were required to administer the DOC inmate phone system contract, DOC's specialized requirements for an inmate phone system would need to be fully and adequately addressed.

DIT staff have stated that the structure and services provided to DOC under the current inmate phone system could be maintained or even expanded if necessary. DIT would need to be especially cognizant of DOC's security requirements to ensure that the phone system meets the needs of inmates, call recipients, DOC, and the general public.

For example, phone company staff should be on-site at DOC's central office to address the system's operations, respond to DOC's requests for service, and support DOC staff. In addition, DOC should develop and agree to all of the requirements in the RFP that apply to the inmate phone system. Finally, the request for proposal and contract pertaining to the DOC inmate phone system should ensure that DOC has the ability to interact directly with the contractor regarding the inmate phone system and that the contractor will be responsive.

Recommendation (6). The General Assembly may wish to direct that the Department of Information Technology assume responsibility for developing and administering the next contract for phone service for inmates in facilities operated by the Department of Corrections as part of the next statewide telecommunications services contract.

ADDITIONAL OPTIONS FOR IMPROVING THE SYSTEM

Previous sections of this report have addressed issues related to the fiscal impact of the inmate phone system, oversight and administration, and commission payments. This section discusses additional options for improving the inmate phone system to address issues identified during this review.

The next inmate phone contract should require the submission of detailed data related to the system's operation. The data should also be submitted in an automated format for easier auditing and analysis including a review of the impact of costs on call recipients. Moreover, the next contract should require that an independent audit of the phone system's timing, billing, and billable and commission revenue be provided. Finally, additional mechanisms designed to benefit call recipients should be implemented.

More Detailed Calling and Revenue Data Should Be Required

Despite the large amount of money involved, the billable and commission revenue has apparently never received a detailed review. DOC receives a monthly check summary report, an institutional summary report, and a report that details call activity by inmate phone. These reports show the number of interstate and intrastate calls, total call minutes, revenue from the calls, and the commission revenue. DOC uses the data in the reports to ensure the commission revenue paid by MCI is correct. However, there is not sufficient detail provided in the reports to ensure that the billable revenue from which the commission payment is calculated is correct.

In the contract, there is an example of a report that was to be provided to DOC by the contractor. This report does indicate the number of calls assessed a surcharge. However, when JLARC staff requested this report, MCI staff noted that that report had never been requested by DOC staff. As a result, the capability to routinely provide the report had been eliminated sometime in 1993.

In addition, there is no report that indicates the total billable revenue, uncollected revenue, and contested revenue. Detail of this type is necessary to begin to properly audit the commission revenue paid the State by the contractor. The contract requires that the commission be paid to the State on the basis of total gross billable revenue. Gross billable revenue includes uncollected charges and charges that are being contested.

While MCI provides DOC data on the total revenue, DOC does not collect the necessary data to fully verify the accuracy of the gross billable revenue. Moreover, DOC staff noted that the data are not provided in a format easily amenable to audit or analysis. Yet, it is possible to receive more detail in a format that is amenable to audit or analysis. For example:

The Florida Department of Corrections requires the inmate phone system contractor to provide call detail data on a high density diskette. Data required on the diskette include: originating phone number, terminating number, length of the call, total amount charged, and the surcharge. From this diskette, the department is able to construct a call exception report that highlights total gross revenue and all billing exceptions.

Such detailed data in an automated format would enable the State to better audit the billings and revenue, as well as monitor the impact of the system on call recipients. Information related to the calls which are assessed the long distance surcharge, uncollectable charges, and contested charges would enable planners and policy makers to have a better understanding of the system's impact on call recipients.

Recommendation (7). The Department of Corrections should require the submission of all reports referenced in the current inmate telephone

system contract and use these reports to more closely review the commission revenue paid to the State.

Recommendation (8). In the next contract, the contractor should be required to provide inmate calling data in an automated format. Data provided should include, at a minimum, originating phone number, billed phone number, date and time of call, length of call, surcharge, and other approved toll charges. The contracting agency should use the data to verify billable revenues, commission payments, and monitor the impact of the system on call recipients.

An Independent Audit of the Phone System's Accuracy Should Be Required

As discussed earlier in this chapter, problems with the inmate telephone system's call timing have occurred. Although the situation was eventually resolved, it is not clear how long the situation lasted. Moreover, there is currently no active monitoring of the system by DOC to ensure that there are no further call timing problems. DOC staff noted that they do not have the resources or the expertise to provide this type of oversight.

This review indicates that some other states have more creatively and aggressively addressed issues related to billing and timing accuracy. For example:

The Florida department of corrections requires that the contractor twice per year provide a report from an independent auditing firm "verifying that the contractor's operating systems are accurately and completely recording all calls made." The reports shall contain a certification from the auditing firm that its findings are totally unbiased and independent from the contractor's interests.

* * *

The request for proposal for North Carolina's public telephone service for all state agencies, including the inmate phone system, stated that "the contractor must provide an annual independent audit of all traffic, revenues, and commissions generated...."

These types of independent audit and review requirements could be an excellent supplement to any of the oversight activities carried out by DOC at no additional cost. However, if the administration of the telephone system is transferred to DIT, the need to consider these types of requirements may be diminished due to the ability of DIT to conduct many of these functions.

Recommendation (9). In the next inmate telephone contract, whether administered by the Department of Corrections or Department of Information

Technology, an annual independent audit of the timing and billing functions of the inmate phone system as well as the billable revenue and any commissions attributable to the system should be required.

Additional Mechanisms that Could Benefit Call Recipients

In addition to the previous recommendations in this report designed to improve the performance of the system and mitigate the fiscal impact on call recipients, additional steps should be taken to benefit the call recipients. Call recipients, because the calls are billed as collect calls, pay to use the system. Therefore, it does not seem unreasonable to expect that steps to address their concerns be taken.

First, because call recipients in effect pay for the system, some attempt should be made to solicit their input in the next contract development process regarding features of the next inmate phone system. Second, steps to increase the awareness of inmates and call recipients of rate increases should also be addressed in the next contract.

Solicit Additional Input When Developing Next Phone System Contract. DOC staff noted that when the department begins to develop the RFP for the next inmate phone system, they will solicit input from staff in the various DOC institutions about new features or problems they would like to see addressed in the new inmate phone system. This type of input will be in part used to develop a scope of need which will then be transposed into the request for proposal.

When developing the scope of need, DOC should also attempt to solicit input from the users of the system through organizations that are composed of, or represent call recipients. This input could be used to identify any requirements that could be included in the next system to meet call recipients' needs. Although DOC's security and operational needs will likely need to take precedence, there may be some features that call recipients would like to have included in the system. Therefore, some formal attempt to solicit input from inmate call recipients should be taken.

Recommendation (10). In the development of the next inmate telephone contract, steps should be taken to formally solicit input from call recipients of inmate calls during the development of the request for proposal.

Inmate Telephone Carrier Should Notify Call Recipients and Department of Corrections of All Rate Increases. Another concern related to the inmate telephone system that was identified during this review was the lack of advance notice of increases in the rates charged for inmate collect calls. When increases are substantial, the impact on the next month's bill can be significant as well as unexpected. For example:

One inmate call recipient noted that "rates are frequently increased without any prior notification to the customers...." She stated that she often learned of increases in the cost of calls by comparing her monthly

bills. In correspondence with the telephone company questioning why the cost of calls had unexpectedly increased, the phone company responded that "As you observed from comparing your October and December, 1992, telephone bills to your January, 1993 [bill], there has been an increase in rates. This rate increase was made in order to bring [inmate] payphone rates in line with those of AT&T."

MCI staff reported that they were aware of several occasions in which they notified DOC of rate increases. However, they also noted that simply filing a revised tariff with the SCC is public notice. Whether this is adequate public notice, especially when increases in rates or surcharges are significant, is questionable.

In developing the next contract, DOC should require the contractor to notify call recipients at least 30 days prior to a rate or surcharge increase. Individuals receiving the calls should be aware of rate increases in order to determine whether they need to reduce the number of calls they will accept. While the specific method for notifying call recipients will need to be negotiated in the contract development process, consideration should be given to including notification in monthly telephone bills.

DOC also needs to be informed of rate changes to ensure that the requirements in the contract regarding rates are being followed. However, DOC staff involved with the inmate telephone system noted that they are not always informed of rate changes. As a result, proactive contract monitoring on this issue is likely difficult. The next contract should also require that the contracting telephone carrier provide DOC at least 30 days written notice of pending rate increases.

Recommendation (11). In the next inmate telephone contract, the contracting company should be required to provide the contracting agency with at least 30 days written notice of rate increases and the rates to be charged. The contractor should also be required to notify call recipients at least 30 days in advance of pending rate increases.

Appendix B

Agency Responses

As part of an extensive data validation process, the major State agencies involved in a JLARC assessment effort are given an opportunity to comment on an exposure draft of the report. Appropriate technical corrections resulting from the written comments have been made in this version of the report.

This appendix contains the following responses:

- Department of Corrections
- Virginia CURE



COMMONWEALTH of VIRGINIA

Department of Corrections

RON ANGELONE
DIRECTOR

P. O. BOX 26963
RICHMOND, VIRGINIA 23261
(804) 674-3000

December 12, 1996

Mr. Philip A. Leone, Director
Joint Legislative Audit and Review Commission
Suite 1100, General Assembly Building
Capitol Square
Richmond, Virginia 23219

Dear Mr. Leone:

Unfortunately, I received the exposure draft of the "Review of the Department of Corrections' Inmate Telephone System" with insufficient time to give the document the thorough analysis it deserves or to schedule a meeting with you and your staff to discuss its contents by the deadline you prescribed. An initial review of the document leads me to offer the following comment on the overall report.

While the report goes to some length to suggest the beneficial elements of having telephones available to inmates (some eight references by my count) there seems to be a rather noticeable lack of discussion of the abuses made of the ITS by inmates. Such a discussion would seem proper, if not necessary, because it is these abuses that both generate the unique nature of the ITS and impact its cost. It is also a lack of discussion of this topic that causes me to observe that there appears to be a conclusion that the ITS is simply another telecommunications system, practically identical in nature to that found in any public setting. Such a conclusion is patently incorrect. The ITS is a specialized telecommunication system incorporating security and oversight features that a public system would not require. One can not lose sight of the fact that the ITS is employed in a prison setting.

As the report stipulates the rates for inmate calls are virtually the same as for other public telephone systems. It would seem then that the real issue is the difference between the public surcharge rate of \$2.15 and the surcharge attached to the ITS of \$3.00. The question is whether the \$.85 difference is unreasonable considering the additional security and oversight features the system requires. It should also be pointed out that the ITS is a dynamic system that is constantly evolving as improvements are made to address the complaints of victims of unwanted calls and other inmate attempts to abuse the system.

Mr. Philip Leone

12/12/96

Page 2

I am opposed to the transfer of the ITS to the Department of Information Technology (DIT). As I have previously stated the ITS is a unique and specialized telecommunications service that addresses the Department's need for security, uniformity, service, flexibility and cost. Again debunking the notion that the ITS is like other public telephone systems, DIT has its expertise in the areas of networks, acquisition of transmission lines, billings and audits; the working nature of the PC-based ITS is its features, functionality and software. I feel it is imperative that the Department retain control of the operational elements of the ITS to preserve and insure the security, uniformity, service, flexibility that is required. Failure in any of these areas would necessitate shutting down the ITS.

In addition, the practical appreciation of this issue is that the telephone activity is being conducted in Department facilities by inmates managed by the Department. The public will undoubtedly hold the Department responsible for any problems or abuses that occur involving the ITS without regard to any outside agency that may be involved.

Merging the ITS contract with the state-wide telecommunications contract might not be in the best interest of the Commonwealth. Because of the unique features of the ITS, it is imperative that the Department's interests and requirements not be subordinate to any other considerations that are part of the state-wide contract negotiation. The best vendor for state-wide service may not be the best suited for operating the ITS. At a minimum the severability of the ITS from the state-wide contract must be guaranteed. In this perspective the advantage of bundling the systems may be illusory. The Department must retain the ability to define system requirements, system specifications and security features of the system. The Department must also be able to amend, delete or add to these requirements during the life of the contract. This may prove troublesome and would certainly be more complicated if the Department was required to work through another bureaucracy to achieve these results.

I would also caution against moving toward over-regulation or rate capping. This could well lead to limiting the number of vendors willing to participate. Along this line I have asked MCI to offer their comments on the report from the industry perspective.

It should also be pointed out that when the contract was negotiated in 1991, Virginia was among the vanguard of states moving to develop and employ a state-wide ITS. Many states learned from the Virginia experience, as have we. Certain comments contained in the report should be considered within the context of the state of the industry and technology as it existed in 1991, not against today's standards and technological improvements.

Mr. Philip Leone

12/12/96

Page 3

Let me close by stating the Department's inmate telephone system has been a highly successful program. It has significantly reduced inmate telephone abuse and fraud compared to earlier programs. It has also generated \$24 million for the General Fund of the Commonwealth. More importantly it has achieved this without the need for underwriting by the taxpayers of Virginia.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ron Angelone".

Ron Angelone

JLARC Staff

RESEARCH STAFF

Director

Philip A. Leone

Deputy Director

R. Kirk Jonas

Division Chiefs

- Glen S. Tittermary
- Robert B. Rotz

Section Managers

John W. Long, Publications & Graphics
Gregory J. Rest, Research Methods

Project Team Leaders

- Craig M. Burns
- Linda Bacon Ford
- Harold E. Greer, III
- William L. Murray
- Wayne M. Turnage

Project Team Staff

- Emily J. Bikofsky
- Patricia S. Bishop
- Steven E. Ford
- Deborah Moore Gardner
- Joseph J. Hilbert
- Jack M. Jones
- Marcus D. Jones
- Melissa L. King
- Eric H. Messick
- Eric P. Rollins
- Ross J. Segel
- E. Kim Snead
- Paul Van Lenten
- Rowena P. Zimmermann

ADMINISTRATIVE STAFF

Business Manager

Joan M. Irby

Administrative Services

Becky C. Torrence

SUPPORT STAFF

Technical Services

Betsy M. Jackson, Publications Assistant

- *Indicates staff with primary assignments to this project*

Recent JLARC Reports

Medicaid Asset Transfers and Estate Recovery, November 1992
Medicaid-Financed Hospital Services in Virginia, November 1992
Medicaid-Financed Long-Term Care Services in Virginia, December 1992
Medicaid-Financed Physician and Pharmacy Services in Virginia, January 1993
Review Committee Report on the Performance and Potential of the Center for Innovative Technology, December 1992
Review of Virginia's Administrative Process Act, January 1993
Interim Report: Review of Inmate Dental Care, January 1993
Review of the Virginia Medicaid Program: Final Summary Report, February 1993
Funding of Indigent Hospital Care in Virginia, March 1993
State/Local Relations and Service Responsibilities: A Framework for Change, March 1993
1993 Update: Catalog of State and Federal Mandates on Local Governments, June 1993
1993 Report to the General Assembly, September 1993
Evaluation of Inmate Mental Health Care, October 1993
Review of Inmate Medical Care and DOC Management of Health Services, October 1993
Local Taxation of Public Service Corporation Property, November 1993
Review of the Department of Personnel and Training, December 1993
Review of the Virginia Retirement System, January 1994
The Virginia Retirement System's Investment in the RF&P Corporation, January 1994
Review of the State's Group Life Insurance Program for Public Employees, January 1994
Interim Report: Review of the Involuntary Civil Commitment Process, January 1994
Special Report: Review of the 900 East Main Street Building Renovation Project, March 1994
Review of State-Owned Real Property, October 1994
Review of Regional Planning District Commissions in Virginia, November 1994
Review of the Involuntary Commitment Process, December 1994
Oversight of Health and Safety Conditions in Local Jails, December 1994
Solid Waste Facility Management in Virginia: Impact on Minority Communities, January 1995
Review of the State Council of Higher Education for Virginia, January 1995
Costs of Expanding Coastal Zone Management in Virginia, February 1995
VRS Oversight Report No. 1: The VRS Investment Program, March 1995
VRS Oversight Report No. 2: The VRS Disability Retirement Program, March 1995
VRS Oversight Report No. 3: The 1991 Early Retirement Incentive Program, May 1995
Review of Capital Outlay in Higher Education, June 1995
The Concept of Benchmarking for Future Government Actions, July 1995
1995 Report to the General Assembly, September 1995
Follow-Up Review of Community Action in Virginia, September 1995
VRS Oversight Report No. 4: Semi-Annual VRS Investment Report, September 1995
Technical Report: The Cost of Competing in Standards of Quality Funding, November 1995
Funding Incentives for Reducing Jail Populations, November 1995
Review of Jail Oversight and Reporting Activities, November 1995
Juvenile Delinquents and Status Offenders: Court Processing and Outcomes, December 1995
Interim Report: Feasibility of Consolidating Virginia's Wildlife and Marine Resource Agencies, December 1995
Review of the Virginia State Bar, December 1995
Interim Report: Review of the Department of Environmental Quality, January 1996
Minority-Owned Business Participation in State Contracts, February 1996
Legislator's Guide to the Virginia Retirement System, May 1996
VRS Oversight Report No. 5: Semi-Annual VRS Investment Report, May 1996
VRS Oversight Report No. 6: Biennial Status Report on the Virginia Retirement System, May 1996
Special Report: Review of the ADAPT System at the Department of Social Services, June 1996
Technical Report: Review of the Medicaid Forecasting Methodology, July 1996
Review of the Magistrate System in Virginia, August 1996
Review of the Virginia Liaison Office, October 1996
Feasibility of Consolidating Virginia's Wildlife Resource Functions, December 1996
The Operation and Impact of Juvenile Corrections Services in Virginia, January 1997
Review of the Department of Environmental Quality, January 1997
Interim Report: The Secretarial System in Virginia, January 1997
The Feasibility of Modernizing Land Records in Virginia, January 1997
Review of the Department of Corrections' Inmate Telephone System, January 1997



Virginia CURE
P.O. Box 19453 • Alexandria, Virginia 22320
703.765.6549
Citizens United for Rehabilitation of Errants

Phone and fax: 703.765.6549

December 16, 1996

121996

Mr. Philip A. Leone, Director
Joint Legislative Audit and Review Commission
General Assembly Building
Richmond, Virginia 23219

Dear Mr. Leone:

We appreciate the opportunity to briefly review the exposure draft of the Joint Legislative Audit and Review Commission's report on the prison telephone system. All in all, we believe the report is thorough and informative. It provides some basis for correcting excessive charges being levied on a particular group of families who at present have no choice but to pay double the cost of providing telephone services between themselves and their loved ones in prison. Many families live below the poverty line and most families are challenged to pay for the expensive service.

Some of the eleven recommendations provide a basis for policy decisions whereby Virginia can eliminate the so-called commission system, and lead other states by justly charging for calls from prisons. Our views on the recommendations are based on a perspective of fairness which all Virginia citizens should expect of its government.

The commissions in the prison telephone contract, like all commissions, are a payment for something. In this case, the contractor is paying the Virginia government through excessive charges to a group of citizens who have no option but to pay. Other citizens have choices and may choose to use a pay phone with operator assistance, a direct dial calling card, such as many of us carry in our wallets or purses, or other cost-saving options that are available to us from telecommunications companies.

In the current prison telephone system, the Virginia contractor and others throughout the nation offer a contract whereby the most expensive fee structure, operator assisted phone call rates, plus a surcharge, is used and the payee has no choice. The government should simply charge the cost of providing the service.

Affordable phone calls are an important means for preserving family relationships. It is a prison management tool that relieves tension essential for the staff and inmates. Further, public safety is enhanced by considerably lower rates of recidivism when offenders are released. This computes to less crime and fewer victims.

Based on a former contract of the Wisconsin Department of Corrections, the cost of such a contract would be 70% of direct dial rates. We take this to mean 70% of what it would cost to dial directly from home. It should be no surprise that the economies of scale from a statewide telephone system—which involves no operator assistance—would yield comparable rates. Virginia CURE believes the government has no right, outside of taxes, to usurp income from a group of citizens through such devices as used in the present prison telephone system contract.

Mr. Philip A. Leone
December 16, 1996

2.

Virginia CURE urges the option, not discussed in the report, which would simply require that the new contract follow the pattern of the aforementioned Wisconsin contract. That is, charge rates for cost only. Elimination of the current surcharge would greatly contribute to this objective.

Recommendation 6 seems to provide a basis for a fair contract. It states that the General Assembly may wish to direct that the Department of Information Technology (DIT) assume responsibility for developing and administering the next contract for the prison inmate telephone system. The contract could be folded into a contract for all state-operated telephones. This recommendation responds to the General Assembly's request that JLARC review and explore such options. The current prison telephone contract expires on December 31, 1997.

We strongly favor pursuit of this recommendation as it provides a basis for telephone rates which are based on a larger economy of scale than the prison system offers. This economy would benefit both families of prisoners and other state telephone users. Further, it seems imminently sensible that the expertise of DIT be used in managing the rather complex telecommunications systems. The report seems to adequately recognize the need for insuring the Department of Corrections involvement with respect to security and other needs peculiar to the prison system.

A serious concern is that the report does not show the current telephone rates of the state telephone system. What is the state paying? For example, what is the rate charged for a call from George Mason University to Richmond? Is it 70% or even less than a family household pays? If so, Recommendation 6 provides a basis for the most ideal system of charges. The overall savings would offset some, if not all, of the loss of revenue from not overcharging the families of prisoners.

We understand that the state telephone system contract expires at a later date than does the inmate telephone contract. There should be no inordinate delay in correcting the current situation. Should the time difference be more than say six months, we recommend that rates which are no more than cost be introduced into an amended prison system contract which would bridge to the statewide combined telephone contract. At a minimum, we would eliminate the unjustified \$3 surcharge for each call.

Recommendation 1 presumes continuation of the operator assist phone rates, plus surcharges. As noted, Virginia CURE opposes these excessive charges.

Recommendation 2 states that the 15-minute time limit could be extended. We agree. Fifteen minutes is a very short time for conversations with family members, especially when there are both an adult and children in the home. Obstacles to this recommendation, such as not having enough telephones installed in prison facilities, should be removed. If a limit is required, it should be 30 minutes, or more. This will reduce the high incidence of \$3 surcharges forced by the current time limit.

Mr. Philip A. Leone
December 16, 1996

3.

Recommendation 3 states that if rates and surcharges for the Department of Corrections inmate phone system are reduced so they do not exceed the operator assisted collect call rate charged the public by a dominant (as opposed to the selected) carrier, the Department of Correction's commission revenue program should remain in place. As previously noted, Virginia CURE is opposed to commissions as they are in the form of inappropriate payoffs to the state and excessively charge the recipients of telephone calls who have no alternative choices.

Recommendation 4 suggests use of revenue from the phone system for programs or services that directly benefit inmates. **Recommendation 5** elicits a proposal for use of such funds for consideration of the House Appropriations and the Senate Finance Committees by February 1, 1997. This recommendation ameliorates our objections to simply payoff the state, but we believe it is highly inequitable. The state is responsible for programs that serve to better its prisoners. This is in the interest of a society that should expect persons to come out of prison better than when they entered. Any conscionable charge to families in no way should limit these programs or be required as a supplement to the cost. The state should instead take up its responsibilities to its people.

Recommendations 4 and 5 are inequitable since perhaps half or less of all prisoners are in contact with families, but these often poor families would be charged for benefits to all.

Since the state has eliminated prisoner programs throughout the system, some of which were provided on a volunteer—that is, free—basis, we have no assurance that the state would be motivated to implement proposed programs.

If the state continues to take profits from prisoner families and directs commissions to programs, we agree that the Appropriations and Finance Committees should assure that the income is not used to replace appropriations now being made and that appropriation language is sufficiently stated. Further, such a program should be based on profits from direct dial rates, with no surcharge, which all free citizens pay. Instead, Virginia CURE recommends that the prison system be enfolded into the state telephone system as in Recommendation 6, discussed above.

Recommendations 7 and 8 are housekeeping recommendations dealing with reports that should be required of a contractor for the prison system. The recommendations seem sensible. It is especially important that the data show impact on families. For example, the data in the JLARC report seems to be limited to anecdotal information.

Recommendation 9 states that an annual independent audit of the timing and billing functions of the inmate telephone system as well as the billable revenues and any commissions should be required. We concur. This recommendation, again, is in direct response to the General Assembly's requirement to JLARC.

Mr. Philip A. Leone
December 16, 1996

4.

We agree with **Recommendations 10 and 11** that steps be taken to solicit input from call recipients before development of the next Request for Proposal. However, this should be in the context of a portion of the broader state telephone contract. We concur with the recommendation that both the Department of Corrections and call recipients need to be notified 30 days in advance of any rate adjustments.

Sincerely,

A handwritten signature in cursive script, reading "Jean Auldridge".

Jean Auldridge
Director

Appendixes

Page

Appendix A: Study Mandate.....A-1

Appendix B: Agency ResponsesB-1

Appendix A

Item 14I - 1996 Appropriation Act

The Joint Legislative Audit and Review Commission shall examine the fees, costs and revenues related to operation of the prison inmate telephone system. The review shall include, but not be limited to (1) a comparison of policies in other states regarding cost of service, fees charged and the use of revenues (2) the financial impact on inmate families, and (3) the need for oversight by an entity independent of the Department of Corrections. The Commission shall report its findings to the 1997 General Assembly.